

MAR 15 2012

PATRICK E. DUFFY, CLERK  
By \_\_\_\_\_  
DEPUTY CLERK, MISSOULA

UNITED STATES OF AMERICA,	)	Cause No. CR 99-18-M-DWM
	)	
Plaintiff,	)	
	)	
vs.	)	ORDER DENYING MOTION TO
	)	CORRECT THE JUDGMENT
JOHN LANNY LYNCH,	)	
	)	
Defendant.	)	

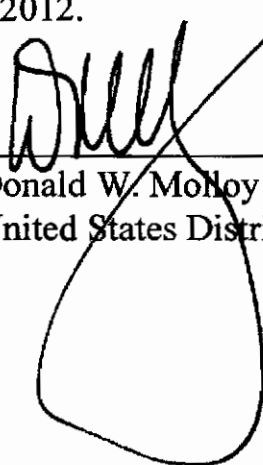
On February 27, 2012, Defendant/Movant John Lanny Lynch (“Lynch”) moved for correction of an order under Fed. R. Crim. P. 36 and for my recusal. The correction he seeks is deletion of a reference to his “cold-bloodedly killing a man.” See Order of June 3, 2008 (doc. 223) at 15 n.2. Further, he asks that I recuse myself and let another judge decide his motion to correct. See Mot. to Correct (doc. 229) at 1-3.

Lynch’s motions are denied. “[T]he challenged judge himself should rule on the legal sufficiency of a recusal motion in the first instance.” *United States v. Studley*, 783 F.2d 934, 940 (9th Cir. 1986); *United States v. Azhocar*, 581 F.2d 735,

739-40 (9th Cir. 1978). Lynch believes I am biased because, after hearing all the evidence at his trial, I was convinced beyond a reasonable doubt that Lynch cold-bloodedly killed Brian David Carreiro. But that is what judges do: they listen to evidence, and they draw conclusions. Otherwise, judgment itself would be impossible. Moreover, the Order Lynch seeks to correct already states that he was not convicted of murder. Order of June 3, 2008, at 8, 10. Therefore, Lynch adduces no basis either for recusal or for correcting the Order. *Liteky v. United States*, 510 U.S. 540, 555 (1994).

Accordingly, IT IS HEREBY ORDERED that Lynch's motions for correction of an Order and for recusal (doc. 229) are DENIED.

DATED this 15<sup>th</sup> day of March, 2012.



Donald W. Molloy  
United States District Court